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6 IN THE UNITED STATES DISTRICT COURT
7
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 JORGE GARCIA,

No. CV 07-6012 JSW

10 Petitioner,

11 v.

12 ROBERT HOREL,

13 Respondent.
14 _____/

**ORDER DENYING
APPLICATION FOR
CERTIFICATE OF
APPEALABILITY**

15 **BACKGROUND**

16 Petitioner, Jorge Garcia ("Garcia") a prisoner of the State of California, filed a habeas
17 corpus petition pursuant to 28 U.S.C. § 2254 challenging the constitutional validity of his state
18 conviction. On November 30, 2009, the Court denied Garcia's petition on the basis that he
19 failed to show any violation of his federal constitutional rights in the underlying state criminal
20 proceedings. Garcia has filed a notice of appeal and an application for certificate of
21 appealability.

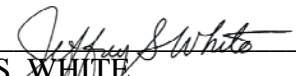
22 A petitioner may not appeal a final order in a federal habeas corpus proceeding without
23 first obtaining a certificate of appealability (formerly known as a certificate of probable cause to
24 appeal). *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A judge shall grant a certificate of
25 appealability "only if the applicant has made a substantial showing of the denial of a
26 constitutional right." 28 U.S.C. § 2253(c)(2). The certificate must indicate which issues satisfy
27 this standard. 28 U.S.C. § 2253(c)(3). "Where a district court has rejected the constitutional
28 claims on the merits the showing required to satisfy § 2253(c) is straightforward: the petitioner

1 must demonstrate that reasonable jurists would find the district court's assessment of the
2 constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

3 For the reasons discussed in the order denying the petition, Petitioner has not shown that
4 reasonable jurists would disagree that the claims in his petition are without merit. Accordingly,
5 the application for certificate of appealability is DENIED. The Clerk of Court shall forward
6 this order, along with the case file, to the United States Court of Appeals for the Ninth Circuit.
7 Petitioner may also seek a certificate of appealability from that court. *See United States v.*
8 *Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).

9 **IT IS SO ORDERED.**

10
11 Dated: January 6, 2010



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE